

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

UNITED STATES OF AMERICA

VS.

CRIMINAL NO. 5:07-cr-17(DCB)(FKB)
CIVIL ACTION NO. 5:15-cv-15 (DCB)

CHARLES EDWARD PRICE

ORDER

This cause is before the Court on the movant Charles Edward Price's "Miscellaneous Motion / Motion for Reduction of Sentence" (**docket entry 422**), Motion for Status, etc. (**docket entry 448**), and "Motion for an Order Compelling Disclosure or Discovery" (**docket entry 449**).

Price filed a Notice of Appeal to the Fifth Circuit Court of Appeals on March 19, 2015. In order for this Court to exercise subject-matter jurisdiction over a claim, the claim must be ripe for review. DeCell & Associates v. F.D.I.C., 36 F.3d 464, 468-69. A section 2255 motion and related motions filed while a direct appeal is pending are generally not ripe for review because the disposition of the appeal may render such motions moot. Welsh v. United States, 404 F.2d 333 (5th Cir. 1968), abrogated on other grounds, United States v. Ortega, 859 F.2d 327, 334 (5th Cir. 1988). Accordingly, when a direct appeal is pending, a court should normally dismiss a section 2255 motion and related motions without prejudice to the movant reasserting the motions after the appellate

court has ruled on his direct appeal. Jones v. United States, 453 F.2d 351, 352 (5th Cir. 1972)(holding that a motion to vacate under section 2255 "is not entitled to consideration on the merits" when the direct appeal remains pending).

The Court finds no extraordinary circumstances justifying its consideration of Price's motions while his direct appeal is pending. The Court shall therefore summarily dismiss the motions for lack of subject matter jurisdiction pursuant to Rule 4 of the Rules Governing Section 2255 cases.

Accordingly,

IT IS HEREBY ORDERED that movant Charles Edward Price's "Miscellaneous Motion / Motion for Reduction of Sentence" (**docket entry 422**), Motion for Status, etc. (**docket entry 448**), and "Motion for an Order Compelling Disclosure or Discovery" (**docket entry 449**) are DISMISSED WITHOUT PREJUDICE for lack of subject matter jurisdiction.

SO ORDERED, this the 28th day of December, 2015.

s/David Bramlette
UNITED STATES DISTRICT JUDGE